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COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

EXPLANATION OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1987

COMMITTEE AMENDMENT (REVENUE TITLE) TO BE OFFERED TO H.R. 2310

BY THE

COMMITTEE ON WAYS AND MEANS

AUGUST 6, 1987

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CONTENTS

	Page
Introduction	1
I. Summary and Background	2
A. Summary of Committee Amendment	2
B. Background of Legislation	3
II. Explanation of Committee Amendment	4
A. Extension of Aviation Excise Taxes	4
B. Exemption for Certain Emergency Medical Helicopters	6
C. Extension of Trust Fund Authority	6
III. Budget Effects of Committee Amendment	8
IV. Vote of the Committee and Other Matters to be Discussed Under House Rules	9
A. Vote of the Committee	9
B. Other Matters to be Discussed under House Rules	9
V. Additional Views of the Honorable Fortney H. (Pete) Stark	11
VI. Statutory Language of Committee Amendment	12
VII. Changes in Existing Law Made by the Committee Amendment	17

INTRODUCTION

This document provides an explanation of the provisions of the Airport and Airway Revenue Act of 1987, as approved by the House Committee on Ways and Means on August 3, 1987. The provisions were approved by voice vote as a committee amendment to be offered as a separate revenue title to H.R. 2310 (Airport and Airway Improvement Amendments of 1987) when that bill is considered by the House of Representatives.

This explanation is to be considered as the official legislative history of the committee amendment, and is intended to be the equivalent of a committee report on the provisions of the commitee amendment. The statutory language of the committee amendment is included as part of this document.

I. SUMMARY AND BACKGROUND

A. Summary of Committee Amendment

Extension of present aviation excise taxes

The committee amendment extends the present-law aviation excise taxes for five years from January 1, 1988, through December 31, 1992. These taxes are an 8-percent tax on air passenger fares, a 5-percent tax on domestic air freight, a $3-per-person tax on international departures, and fuels taxes (12 cents per gallon on gasoline and 14 cents per gallon on other fuels) on noncommercial (general) aviation.

Reduction in tax rates if Trust Fund appropriations fall below specificed levels

The committee amendment provides an automatic reduction in the air passenger ticket, air freight, and general aviation fuels tax rates for the calendar year following a fiscal year (beginning on or after October 1, 1987) for which Airport and Airway Trust Fund appropriations for certain programs (airport improvement, facilities and equipment, and research, engineering, and development) fall below 90 percent of the authorized levels.

The reduction in tax rates will occur only if the unobligated Trust Fund balance at the end of the applicable fiscal year is $2 billion or more. The tax rate reduction is equal to the percentage of the funding shortfall, but the rate reduction is not to exceed 50 percent.

Exemption from avaiation excise taxes for certain emergency medical helicopters.

The committee amendment expands the current exemption for certain helicopters not using the Federally assisted airport and airway system to exempt emergency medical helicopters owned or leased by nonprofit health care facilities. This exemption applies to emergency medical transportation provided after September 30, 1987.

Extension of transfers of taxes to the Trust Fund and expenditure authority

The committee amendment extends the present-law transfer of aviation excise tax revenues to the Airport and Airway Trust Fund for five years, from January 1, 1988, through December 31, 1992, to correspond with the five-year extension of the taxes.

The committee amendment extends the authority to make expenditures from the Airport and Airway Trust Fund for five years, from October 1, 1987, through September 30, 1992. The committee

amendment also updates the expenditure authority of the Trust Fund to reflect the purposes authorized under H.R. 2310.

B. Background of Legislation

H.R. 2310

H.R. 2310 (Airport and Airway Improvement Amendments of 1987) was referred jointly to the Committee on Public Works and Transportation and the Committee on Science, Space, and Technology.

The Commitee on Science, Space, and Technology reported the bill on June 3, 1987 (H. Rep. 100–123, part 1), providing Trust Fund authorizations for research, engineering, and development expenditures for fiscal years 1988 and 1989. The Commitee on Public Works and Transportation reported the bill on June 26, 1987 (H. Rep. 100–123, Part 2), providing Trust Fund authorizations for airport improvements, airway facilities and equipment, operations and maintenance, and NOAA weather cost reimbursement for fiscal years 1988–1992.

Committee amendment

The Committee on Ways and Means held public hearings on the revenue proposals in the President's Fiscal Year 1988 budget (including the extension of the aviation excise taxes) in the fiscal year 1988 budget on February 3, 4, and 11, 1987.[1] The Committee held a markup on August 3, 1987, and approved a committee amendment to be offered as a revenue title to H.R. 3210 when that bill is considered by the House of Representatives.

[1] The President's fiscal year 1988 budget proposed a two-year extension of present-law Trust Fund excise taxes and Trust Fund expenditure authority.

II. EXPLANATION OF COMMITTEE AMENDMENT

A. Extension of Aviation Excise Taxes

Present Law

Excise taxes are imposed on air passenger tickets (8 percent), domestic air freight (5 percent), international passenger departures ($3.00), and fules for noncommercial aviation (12 cents per gallon on gasoline and 14 cents per gallon on other fuels).

Revenues from these taxes are deposited in the Airport and Airway Trust Fund to fund certain Federal airport and airway programs. The taxes are scheduled to expire after December 31, 1987. There is no provision for reduction or suspension of these excise taxes before the scheduled expiration if Trust Fund authorizations are not fully appropriated.

Reasons for Change

The Committee on Ways and Means agrees that the present-law Airport and Airway Trust Fund excise taxes should be extended for five years to provide financing of expanded airport and airway development and safety program expenditures for fiscal years 1988–1992 as reported in H.R. 2310 by the authorizing committees.

The committee is very concerned, however, over the tendency in recent years to accumulate unobligated funds in the Airport and Airway Trust Fund rather than to spend amounts raised by the aviation excise taxes at the authorized levels. For example, it is projected that the Trust Fund will have an unobligated balance of approximately $5.6 billion as of October 1, 1987. This situation is unacceptable to the Committee on Ways and Means, as the committee responsible for imposing taxes to fund aviation programs.

The chaotic situation in the present air travel system involving delayed and cancelled flights, computer failures, frequent near mid-air collisions, and airplanes landing at incorrect locations must be corrected through spending these user tax revenues at authorized levels to modernize airports (e.g., replace outdated equipment with modern equipment and control and analytic systems), if the aviation excise taxes are to continue to be imposed. While the committee has approved a five-year extension of the current aviation taxes to parallel the five-year extension of Trust Fund authorizations in H.R. 2310, the committee amendment includes a "tax reduction trigger" to create incentives for the Administration and Appropriations Committees to fund Trust Fund programs at the authorized levels. If a tax reduction trigger is in place, the committee believes there will be less tendency to hold back needed spending on the aviation system because reduced Trust Fund spending will trigger reduced aviation tax revenues.

The Committee on Ways and Means intends to continue to monitor the spending programs associated with the Airport and Airway Trust Fund during the five-year extension period to ensure that its objectives are achieved. The committee specifically does not intend to permit its tax reduction trigger to become a mechanism for any purpose other than encouraging needed funding of these vital aviation programs. Thus, should appropriations fall below authorized levels, the committee intends to review its extension of the aviation taxes and of the authority to spend from the Trust Fund, and to consider advancing the expiration dates of the taxes and expenditure authority, if necessary.

Explanation of Provisions

Extension of present-law aviation excise taxes

The committee amendment generally extends the present-law aviation excise taxes for five years, from January 1, 1988, through December 31, 1988, through December 31, 1992. (See also, the provision below relating to the tax reduction "trigger.")

Reduction in aviation excise tax rates if certain Trust Fund appropriations fall below specified levels

The committee amendment provides for an automatic reduction in the Airport and Airway Trust Fund excise tax rates, other than the $3 per person international departure tax, for the calendar year following any fiscal year (beginning after September 30, 1987) for which total Trust Fund appropriations for airport improvement, airway facilities and equipment, and research, engineering, and development fall below 90 percent of the amount authorized. The tax rates are to be reduced by the same percentage as the appropriations shortfall, but the tax rate reduction may not be more than 50 percent.

The tax rate reduction is to be rounded to the nearest tenth (or next lowest tenth in case of 0.05 percent) of a percent of cent per gallon, and the rate reduction is to apply for a period of one calendar year. For example, if the Trust Fund appropriations for these programs are 85 percent of the total authorized, the aviation tax rates are to be reduced to 85 percent of the present-law rates: e.g., 6.8-percent air passenger ticket tax, 4.2-percent air freight tax, 10.2 cents per gallon tax on gasoline, and 11.9 cents per gallon tax on other fuels.

The tax rate reduction is to apply only if the unobligated Trust Fund balance if $2 billion or more as of the end of the applicable fiscal year. The Secretary of the Treasury is to determine by October 15 of each year (and to publish in the Federal Register) the ratio of the actual appropriations and obligations for the abovementioned Trust Fund programs to the total amount authorized for the applicable fiscal year as well as the new tax rates, if a change is necessitated under this provision.

Effective Date

This extension of the aviation excise tax is effective on the date of enactment of the committee amendment. (The first calendar

year in which the aviation taxes may be reduced pursuant to the "tax trigger" provision is calendar year 1989, based on the unobligated Trust Fund balance as of October 1, 1987.)

B. Exemption for Certain Emergency Medical Helicopters

Present Law

Present law includes no exemption from the airport and airway taxes for emergency medical helicopters. Exemptions are provided from the passenger ticket tax and the aviation fuels taxes, however, for helicopters engaged in certain timber and oil, gas, or hard mineral exploration and development activities but are limited to helicopters that do not use the Federally assisted airport and airway system.

Reasons for Change

The committee determined that, in light of the user fee basis of the aviation excise taxes, emergency medical helicopters that do not use the Federally assisted airport and airway system should be exempt from the taxes on aviation fuels, the air passenger ticket tax, and the air freight tax.

Explanation of Provision

The committee amendment provides an exemption from the aviation excise for emergency medical helicopters when engaged in providing emergency medical services, where the helicopters (1) do not use the Federally assisted airport or airway system, and (2) are owned or leased by a nonprofit health care facility and are operated exclusively under the control of such facility.

Effective Date

This provision is effective with respect to emergency medical helicopter transportation provided after September 30, 1987.

C. Extension of Trust Fund Authority

Present Law

Amounts equivalent to the revenues from the aviation excise taxes are transferred to the Airport and Airway Trust Fund through December 31, 1987, when the taxes are currently scheduled to expire. Authority to make expenditures from the Trust Fund expires after September 30, 1987.

The Trust Fund statute authorizes expenditures from the Trust Fund for obligations incurred under the Airport and Airway Improvement Act of 1982 (and as authorized under applicable prior Acts) as in effect on the date of enactment of the 1982 Act.

Reasons for Change

The committee determined that the authority to transfer revenues from the aviation excise taxes to the Trust Fund and the authority to make expenditures from the Trust Fund should be ex-

tended to correspond to the five-year extension of the taxes and the five-year reauthorization of Trust Fund programs.

Explanation of Provision

The committee amendment provides a five-year extension of the transfer of aviation excise tax revenues to the Airport and Airway Trust Fund, through December 31, 1992.

Authority to make expenditures from the Trust Fund is extended for five years, through September 30, 1992.

The committee amendment also updates the Trust Fund statute to include Trust Fund programs authorized under the Airport and Airway Improvement Amendments of 1987 (H.R. 2310).

Effective Date

These provisions are effective on the date of enactment of the amendment.

III. BUDGET EFFECTS OF COMMITTEE AMENDMENT

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effect on the budget of the committee amendment.

The five-year extension of the present-law aviation excise taxes will have no effect on net budget receipts, as the Congressional Budget Office assumes the extension of these taxes in its baseline budget. Assuming that the Airport and Airway Trust Fund appropriations for airport improvements, facilities and equipment, and research, engineering, and development will be at least 90 percent of the total authorized amounts for each fiscal year, the tax rate reduction "trigger" included in the committee amendment will not go into effect; and therefore the provision is not considered to have a budget effect. The exemption from aviation excise taxes for certain emergency medical helicopters is estimated to reduce net budget receipts by less than $1 million per year.

Extension of the aviation excise taxes through 1992 is estimated to provide $18.5 billion in additional tax revenues for the Airport and Airway Trust Fund for fiscal years 1988–1992, as shown in the following table.

Estimated Airport and Airway Trust Fund Tax Revenues, Fiscal Years 1988–92 [1]

[In millions of dollars]

Tax	1988	1989	1990	1991	1992
Passenger tickets (8%)	3,001	3,217	3,505	3,818	4,145
Air freight (5%)	177	190	203	217	233
Int'l departure ($3)	97	100	106	111	116
General aviation fuel (12 cents/gal. gasoline, 14 cents/gal. other)	118	123	126	131	136
Total Trust Fund tax revenues [2]	[3] 3,388	3,625	3,935	4,272	4,625

[1] Trust Fund tax revenue projections are based on CBO's February 1987 economic assumptions, and assume that the tax reduction trigger does not occur during the period.

[2] Net of $5 million in refunds each year.

[3] This includes $1,321 million in tax revenues to be received under current law taxes in effect through December 31, 1987.

IV. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with clause 2(l)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means on the motion to approve the Committee amendment. The committee amendment was approved by voice vote.

B. Other Matters

In compliance with clauses 2(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the committee action on the committee amendment.

Oversight findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the Committee on Ways and Means advises that it was a result of the committee's review of the five-year extension of the Airport and Airway Trust Fund authorizations in H.R. 2310, as reported by the Committees on Public Works and Transportation and Science, Space, and Technology, and the need to provide Trust Fund tax revenues during the five-year period, that the committee concluded that is appropriate to approve the provisions of the committee amendment.

The Committee on Ways and Means held public hearings on February 3, 4, and 11, 1987, on the revenue provisions of the President's fiscal year 1988 budget proposal (including the Administration's proposal to extend the current Trust Fund aviation taxes and Trust Fund authorizations for two years). The committee approved the committee amendment on August 3, 1987, which is to be offered as a revenue title to H.R. 2310 when that bill is considered by the House of Representatives.

Tax expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Congressional Budget Office, the Committee on Ways and Means states that the provisions of the committee amendment do not involve any new or increased tax expenditures.

New budget authority

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Congressional Budget Office, the Committee on Ways and Means states that the committee amendment involves no new budget authority.

Congressional Budget Office estimates

With respect to subdivision (C) of clause 2(l)(3), the Committee on Ways and Means advises that the Congressional Budget Office has examined the committee's estimates of the budget effects of the committee amendment (see Part III of this explanation), and agrees with the estimates as presented.

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the Committee on Ways and Means advises that no oversight findings or recommendations have been submitted by the Committee on Government Operations regarding the subject matter of the committee amendment.

Inflationary impact

In compliance with clause 2(l)(4), the Committee on Ways and Means states that enactment of the committee amendment is not expected to have any impact on prices and costs in the operation of the national economy since the committee amendment extends the current aviation excise taxes at their present-law rates for five years.

V. ADDITIONAL VIEWS OF THE HONORABLE FORTNEY H. (PETE) STARK

Aircraft travel for both business and pleasure has increased substantially over the past several years. As a result, airports have scheduled takeoffs and landings, minutes apart and around the clock—day and night. Unfortunately, the communities which neighbor busy airports have been strongly impacted by airport noise due to this increase in business.

For example, over the past year I have been repeatedly contacted by constitutents about airport noise from three separate regions of my district which neighbor three different airports. These people suffer real fear and anxiety because of low-flying aircraft over their neighborhoods. In talking with my colleagues about this situation, I have discovered that it is both widespread and growing.

Today, I am happy to lend my support for the extension of the Airport and Airway Trust Fund and excise taxes. I do so knowing that these funds are needed to keep our Nation's airports operating smoothly and safely. I would hope that these funds will be put to the good use of encouraging airport operators to work with their neighboring communities to resolve the problem of airport noise.

Airport operators and the FAA have a responsibility to work with the public to alleviate airport noise problems. It is essential that each cooperate with those citizens and public officials who reside in or represent the affected communities. There are funds in the Airport and Airway Trust Fund expressly for this purpose. The FAA should closely monitor operators to see that they are making the best use of these funds.

VI. STATUTORY LANGUAGE OF COMMITTEE AMENDMENT

AMENDMENT TO H.R. 2310, AS REPORTED, TO BE OFFERED BY THE COMMITTEE ON WAYS AND MEANS

At the end of the bill add the following new title:

TITLE II—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

SEC. 201. SHORT TITLE.

This title may be cited as the "Airport and Airway Revenue Act of 1987".

SEC. 202. 5-YEAR EXTENSION OF AVIATION-RELATED TAXES.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1993":

(1) Section 4261(f) (relating to transportation of persons by air).

(2) Section 4271(d) (relating to transportation of property by air).

(3) Section 9502(b) (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes).

(b) FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of such Code (relating to noncommercial aviation) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1992".

SEC. 203. 5-YEAR EXTENSION OF AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY.

(a) EXPENDITURES FROM TRUST FUND.—The material preceding subparagraph (A) of paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1992".

(b) TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by inserting before the semicolon "or under the Airport and Airway Improvement Amendments of 1987 (as such Act was in effect on the date of the enactment thereof)".

SEC. 204. EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY HELICOPTER.

(a) IN GENERAL.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by air) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

"(1) does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation,

"(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation, and

"(3) is owned or leased by a nonprofit health care facility and is operated exclusively under the control of such facility."

(b) TAX FREE SALES.—Subsection (1) of section 4041 of such Code (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met."

(c) TECHNICAL AMENDMENT.—Subsection (e) of section 4261 of such Code is amended by striking out "System Improvement Act" and inserting in lieu thereof "Improvement Act".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after September 30, 1987.

SEC. 205. REDUCTION IN AVIATION-RELATED TAXES WHERE APPROPRIATIONS ARE SIGNIFICANTLY BELOW AUTHORIZATIONS.

(a) IN GENERAL.—Part III of subchapter C of chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by adding at the end the following new section:

"SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES.

"(a) REDUCTION IN RATES.—The rate of any tax to which this section applies with respect to any taxable event occurring during any reduced-tax year shall be an amount equal to the funding shortfall percentage of the rate which would (but for this section) apply with respect to such event.

"(b) TAXES TO WHICH SECTION APPLIES.—This section shall apply to the taxes imposed by—

"(1) subsection (a) of section 4261 (relating to tax on transportation of persons by air),

"(2) subsection (b) of section 4261 (relating to tax on seats, berths, etc.),

"(3) subsection (a) of section 4271 (relating to tax on transportation of property by air),

"(4) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation), and

"(5) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation).

"(c) REDUCED-TAX YEAR.—For purposes of this section, the term 'reduced-tax year' means any calendar year after 1988 if the Secretary determines that—

"(1) as of the close of the most recent fiscal year ending before such calendar year, the unobligated balance of the Airport and Airway Trust Fund was at least $2,000,000,000, and

"(2) the percentage determined under subsection (d)(1) for such fiscal year was less than 90 percent.

"(d) FUNDING SHORTFALL PERCENTAGE.—

"(1) IN GENERAL.—For purposes of this section, the funding shortfall percentage for any calendar year is the percentage (determined by the Secretary) which—

"(A) the sum of—

"(i) the amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for the most recent fiscal year ending before such calendar year, and

"(ii) the amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal year, bears to

"(B) the sum of—

"(i) the amounts authorized to be obligated under such section 505 for such fiscal year, and

"(ii) the amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal year.

For purposes of this paragraph, an amount shall not be treated as obligated or appropriated for any fiscal year if such amount was obligated or appropriated for a prior fiscal year.

"(2) FUNDING SHORTFALL PERCENTAGE MAY NOT BE LESS THAN 50 PERCENT.—If (but for this paragraph) the funding shortfall percentage would be less than 50 percent, such percentage shall be treated for purposes of this section as being 50 percent.

"(3) TREATMENT OF SEQUESTERED AMOUNTS.—The determination under subparagraph (A) of paragraph (1) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

"(e) SPECIAL RULES.—

"(1) APPLICATION OF REDUCTION TO TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

"(A) IN GENERAL.—The funding shortfall percentage for any reduced-tax year shall apply to the aggregate taxes imposed by sections 4041(c)(2) and 4081 on fuel sold or used as described in section 4041(c)(2).

"(B) CREDIT OR REFUND WHERE REDUCTION EXCEEDS 3 CENTS.—For credit or refund where reduction of tax exceeds 3 cents, see section 6427(p).

"(2) TAXABLE EVENT FOR TAXABLE TRANSPORTATION BY AIR.—In the case of the taxes imposed by section 4261 and 4271, the taxable event shall be treated for purposes of this section as occurring when the taxable transportation begins.

"(3) ROUNDING CONVENTIONS.—

"(A) PERCENTAGES.—

"(i) IN GENERAL.—If any percentage to which this subparagraph applies is not a multiple of 0.1 percent, such percentage shall be rounded to the nearest multiple of 0.1 percent (or if such percentage is a multiple of 0.05 percent and not a multiple of 0.1 percent, such percentage shall be reduced to the next lower multipel of 0.1 percent).

"(ii) PERCENTAGES TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to—

"(I) the rates of the taxes impsoed by subsections (a) and (b) of section 4261 and section 4271 for any reduced-tax year (after the application of subsection (a)), and

"(II) the percentage determined under subsection (d)(1).

"(B) FULL TAXES.—If the rate of any tax imposed by paragraph (1) or (2) of section 4041(c) for any reduced-tax year (after the application of subsection (a)) is not a multiple of 0.1 cent, such rate shall be rounded to the nearest multiple of 0.1 cent (or if such rate is a multiple of 0.05 cent and not a multiple of 0.1 cent, such rate shall be reduced to the next multiple of 0.1 cent).

"(4) DETERMINATION OF UNOBLIGATED BALANCE.—

"(A) IN GENERAL.—Not later than 15 days after the close of each fiscal year ending on or after September 30, 1988, the Secretary shall determine—

"(i) the unobligated balance of the Airport and Airway Trust Fund,

"(ii) the funding shortfall percentage (if any) for such fiscal year, and

"(iii) whether the following calendar year will be a reduced-tax year for purposes of this section.

"(B) DETERMINATION TO BE PUBLISHED IN FEDERAL REGISTER.—As soon as practical after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

"(5) TREATMENT OF OBLIGATIONS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an amount shall be treated as obligated when it is appropriated.

"(B) AMOUNTS OBLIGATED UNDER SECTION 505 OF AIRWAY IMPROVEMENT ACT.—An amount shall be treated as obligated under section 505 of the Airport and Airway Improvement Act of 1982 when the obligational authority with respect to such amount is exercised."

(b) REFUND OF FUEL TAXES ON NONCOMMERCIAL AVIATION WHERE REDUCTION EXCEEDS 3 CENTS.—

(1) IN GENERAL.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) GASOLINE USED IN NONCOMMERCIAL AVIATION DURING REDUCED-TAX YEARS.—Except as provided in subsection (k), if—

"(1) any tax is imposed by section 4041(c)(2) or 4081 on any gasoline sold during any reduced-tax year (as defined in section 4283(c)), and

"(2) such gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under sections 4041(c)(2) and 4081 on the gasoline so used over the aggregate amount of tax properly payable after the application of section 4283."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 6427(i) of such Code is amended by striking out "or (h)" and inserting in lieu thereof "(h, or (p)".

(B) Clause (i) of section 6427(i)(2)(A) of such Code is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (p)".

(3) CROSS REFERENCE.—Subsection (c) of section 4041 of such Code is amended by adding at the end thereof the following new paragraph:

"(6) REDUCTION IN RATES OF TAX IN CERTAIN CIRCUMSTANCES.—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283."

(c) CLERICAL ADMENDMENT.—The table of sections for part III of subchapter C of chapter 33 of such Code is amended by adding at the end the following new item:

"Sec. 4283. Reduction in aviation-related taxes in certain cases."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

VII. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE AMENDMENT

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the committee amendment, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

* * * * * * *

CHAPTER 31—RETAIL EXCISE TAXES

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Subchapter A—Special Fuels

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SEC. 4041. IMPOSITION OF TAX.

(a) * * *

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(c) NONCOMMERCIAL AVIATION.—

(1) * * *

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(5) TERMINATION.—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, [1987] *1992.*

(6) REDUCTION IN RATES OF TAX IN CERTAIN CIRCUMSTANCES.—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283.

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[(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

[(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

[(2) the planting, cultivation, cutting or transportation of, or caring for, trees (including logging operation),

but only if the helicopter does not take off from, or land at a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway System Improvement Act of 1982 during such use.]

(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

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CHAPTER 33—FACILITIES AND SERVICES

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Subchapter C—Transportation by Air

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PART I—PERSONS

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SEC. 4261. IMPOSITION OF TAX.

(a) * * *

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(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under subsection (a) or (b) on air transportation by helicopter for the purpose of—

(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

(2) the planting, cultivation, cutting or transportation of, or caring for, trees (including logging operations),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway [System] Improvement Act of 1982 during such use.

(f) EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

(1) does not take off from, or land at, facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation,

(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation, and

(3) is owned or leased by a nonprofit health care facility and is operated exclusively under the control of such facility.

[(f)] *(g)* TERMINATION.—The taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, [1988.] *1993.*

PART II—PROPERTY

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SEC. 4271. IMPOSITION OF TAX.

(a) * * *

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(d) TERMINATION.—The tax imposed by subsection (a) shall apply with respect to transportation beginning after August 31, 1982, and before January 1, [1988.] *1993.*

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PART III—SPECIAL PROVISIONS APPLICABLE TO TAXES ON TRANSPORTATION BY AIR

Sec. 4281. Small aircraft on nonestablished lines.
Sec. 4281. Transportation by air for other members of affiliated group.
Sec. 4283. Reduction in aviation-related taxes in certain cases.

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SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES.

(a) REDUCTION IN RATES.—The rate of any tax to which this section applies with respect to any taxable event occurring during any reduced-tax year shall be an amount equal to the funding shortfall percentage of the rate which would (but for this section) apply with respect to such event.

(b) TAXES TO WHICH SECTION APPLIES.—This section shall apply to the taxes imposed by—

(1) subsection (a) of section 4261 (relating to tax on transportation of persons by air),

(2) subsection (b) of section 4261 (relating to tax on seats, berths, etc.),

(3) subsection (a) of section 4271 (relating to tax on transportation of property by air),

(4) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation), and

(5) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation).

(c) REDUCED-TAX YEAR.—For purposes of this section, the term "reduced-tax year" means any calendar year after 1988 if the Secretary determines that—

(1) as of the close of the most recent fiscal year ending before such calendar year, the unobligated balance of the Airport and Airway Trust Fund was at least $2,000,000,000, and

(2) the percentage determined under subsection (d)(1) for such fiscal year was less than 90 percent.

(d) FUNDING SHORTFALL PERCENTAGE.—

(1) IN GENERAL.—For purposes of this section, the funding shortfall percentage for any calendar year is the percentage (determined by the Secretary) which—

(A) the sum of—

(i) the amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for the

most recent fiscal year ending before such calendar year, and

(ii) the amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal year, bears to

(B) the sum of—

(i) the amounts authorized to be obligated under such section 505 for such fiscal year, and

(ii) the amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal year.

For purposes of this paragraph, an amount shall not be treated as obligated or appropriated for any fiscal year if such amount was obligated or appropriated for a prior fiscal year.

(2) FUNDING SHORTFALL PERCENTAGE MAY NOT BE LESS THAN 50 PERCENT.—If (but for this paragraph) the funding shortfall percentage would be less than 50 percent, such percentage shall be treated for purposes of this section as being 50 percent.

(3) TREATMENT OF SEQUESTERED AMOUNTS.—The determination under subparagraph (A) of paragraph (l) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

(e) SPECIAL RULES.—

(1) APPLICATION OF REDUCTION TO TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

(A) IN GENERAL.—The funding shortfall percentage for any reduced-tax year shall apply to the aggregate taxes imposed by sections 4041(c)(2) and 4081 on fuel sold or used as described in section 1041(c)(2).

(B) CREDIT OR REFUND WHERE REDUCTION EXCEEDS 3 CENTS.—For credit or refund where reduction of tax exceeds 3 cents, see section 6427(p).

(2) TAXABLE EVENT FOR TAXABLE TRANSPORTATION BY AIR.—In the case of the taxes imposed by sections 4261 and 4271, the taxable event shall be treated for purposes of this section as occurring when the taxable transportation begins.

(3) ROUNDING CONVENTIONS.—

(A) PERCENTAGES.—

(i) IN GENERAL.—If any percentage to which this subparagraph applies is not a multiple of 0.1 percent, such percentage shall be rounded to the nearest multiple of 0.1 percent (or if such percentage is a multiple of 0.05 percent and not a multiple of 0.1 percent, such percentage shall be reduced to the next lower multiple of 0.1 percent).

(ii) PERCENTAGES TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to—

(I) the rates of the taxes imposed by subsections (a) and (b) of section 4261 and section 4271 for any reduced-tax year (after the application of subsection (a)), and

(II) the percentage determined under subsection (d)(1).

(B) FUEL TAXES.—If the rate of any tax imposed by paragraph (1) or (2) of section 4041(c) for any reduced-tax year (after the application of subsection (a)) is not a multiple of 0.1 cent, such rate shall be rounded to the nearest multiple of 0.1 cent (or if such rate is a multiple of 0.05 cent and not a multiple of 0.1 cent, such rate shall be reduced to next lower multiple of 0.1 cent).

(4) DETERMINATION OF UNOBLIGATED BALANCE.—

(A) IN GENERAL.—Not later than 15 days after the close of each fiscal year ending on or after September 30, 1988, the Secretary shall determine—

(i) the unobligated balance of the Airport and Airway Trust Fund,

(ii) the funding shortfall percentage (if any) for such fiscal year, and

(iii) whether the following calendar year will be a reduced-tax year for purposes of this section.

(B) DETERMINATIONS TO BE PUBLISHED IN FEDERAL REGISTER.—As soon as practicable after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

(5) TREATMENT OF OBLIGATIONS.—For purposes of this section—

(A) IN GENERAL.—Except as provided in subparagraph (B), an amount shall be treated as obligated when it is appropriated.

(B) AMOUNTS OBLIGATED UNDER SECTION 505 OF AIRWAY IMPROVEMENT ACT.—An amount shall be treated as obligated under section 505 of the Airport and Airway Improvement Act of 1982 when the obligational authority with respect to such amount is exercised.

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Subtitle F—Procedure and Administration

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

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SEC. 6427. FUELS NOT USED FOR TAXABLE PURPOSES.

(a) * * *

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(i) TIME FOR FILING CLAIMS; PERIOD COVERED.—

(1) GENERAL RULE.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), (b), (d), (e), (g), [or (h),] *(h), or (p),* by any person with respect to fuel

used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) EXCEPTIONS.—

(A) IN GENERAL.—If—

(i) $1,000 or more is payable under subsections (a), (b), (d), (e), (g), [and (h)] *(h), and (p),* or

(ii) $50 or more is payable under subsection (e),

to any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter.

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(p) GASOLINE USED IN NONCOMMERCIAL AVIATION DURING REDUCED-TAX YEARS.—Except as provided in subsection (k), if—

(1) any tax is imposed by section 4041(c)(2) or 4081 on any gasoline sold during any reduced-tax year (as defined in section 4283(c)), and

(2) such gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under sections 4041(c)(2) and 4081 on the gasoline so used over the aggregate amount of tax properly payable after the application of section 4283.

[(p)] *(q)* CROSS REFERENCES.—

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

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Subchapter A—Establishment of Trust Funds

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SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

(a) * * *

(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, [1988] *1993,* under subsections (c) and (e) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

(2) amount determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1 [1988] *1993,* under section 4081 (to the extent attributable to the Highway Trust Fund financing rate), with respect to gasoline used in aircraft; and

(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, [1988] *1993* under section 4071 with respect to tires of the types used on aircraft.

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(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, [1987] *1992,* to meet those obligations of the United States—

(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act) or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 (as such Acts were in effect on the date of the enactment of the Surface Transportation Assistance Act of 1982) *or under the Airport and Airway Improvement Amendments of 1987 (as such Act was in effect on the date of the enactment thereof)*;

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